

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

DERRICK VERNON COLE.

Case No. 2:16-CV-2487 JCM (NJK)

Plaintiff(s),

ORDER

V.

ALLIED INTERSTATE LLC, et al.,

Defendant(s).

Presently before the court is Magistrate Judge Koppe's report and recommendation ("R&R"). (ECF No. 7). No objections have been filed, and the deadline for filing objections has since passed.

This court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate.” 28 U.S.C. § 636(b)(1). Where a party timely objects to a magistrate judge’s report and recommendation, then the court is required to “make a de novo determination of those portions of the [report and recommendation] to which objection is made.” 28 U.S.C. § 636(b)(1).

Where a party fails to object, however, the court is not required to conduct “any review at all . . . of any issue that is not the subject of an objection.” *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Indeed, the Ninth Circuit has recognized that a district court is not required to review a magistrate judge’s report and recommendation where no objections have been filed. *See United States v. Reyna-Tapia*, 328 F.3d 1114 (9th Cir. 2003) (disregarding the standard of review employed by the district court when reviewing a report and recommendation to which no objections were made).

Nevertheless, this court finds it appropriate to engage in a *de novo* review to determine whether to adopt the recommendation of the magistrate.

The magistrate recommends that all claims in *pro se* plaintiff Derrick Cole's complaint (ECF No. 6), except the first claim, be dismissed without prejudice pursuant to Federal Rule of Civil Procedure 21. (ECF No. 7). In a previous order, the magistrate screened plaintiff's complaint and granted him leave to file an amended complaint by January 3, 2017. (ECF No. 5). On January 3, 2017, plaintiff filed an amended complaint. (ECF No. 8).

In light of the amended complaint filed, the recommendation to dismiss claims in the original complaint is now moot. Nonetheless, to the extent that the R&R has not been mooted by the amended complaint, the court finds that good cause appears to ADOPT the magistrate's findings.

Accordingly,

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Magistrate Judge Koppe's report and recommendation (ECF No. 7) be, and the same hereby is, ADOPTED consistent with the foregoing and that all claims except the first be dismissed without prejudice.

DATED January 13, 2017.

Xenos C. Mahan
UNITED STATES DISTRICT JUDGE